

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ZEPHYRINUS EGBUONU, *
#27041-265

Plaintiff, *

v. *

2:07-CV-998-WKW

CAPTAIN BARRETT, *et al.*, *

Defendants. *

2007-CV-998-WKW

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA

NOTICE TO THE COURT

COME NOW Plaintiff Zephyrinus Egbuonu, Acting Pro-Se, by and through him in the above-styled action, and file this Notice to the Court. Plaintiff state as follow:

1. Plaintiff mailed his original affidavit response to Defendants' affidavits and exhibits' copies; exhibits 5, 6, 11 through 28, 30 through 107, to the court on March 19, 2008 via United States Postal Service Certified Mail tracking no. 7006 2760 0001 0415 1921. (see attachment)

2. The United States Postal Service ("USPS") attempted to the stated above mail documents on March 22, 08 but unable to deliver. (see attachment)

3. Plaintiff upon checking with Clerk of the Court whether the Court Clerk has received the stated above mail documents. Plaintiff was informed that his sent mail documents have not been received by the Court.

4. Plaintiff has mailed another set copies of the stated above documents to the Court.

5. The USPS has returned the Plaintiff's sent mail documents to the Court dated March 19, 2008 back to the Plaintiff on April 1, 2008 stating that the mailed documents package was refused.

6. Plaintiff is now sending back to the Court the original affidavits response to Defendants' affidavits which was part of the mail documents that the USPS returned to the Plaintiff.

Respectfully Submitted,

Egbuonu Zephyr

Zephyrinus Egbuonu
(Acting Pro-Se)
27041-265 FDC
Federal Detention Center
P. O. Box 5010
Oakdale, Louisiana 71463

CERTIFICATE OF SERVICE

I hereby certify that I have this 7th April, 2008 served a copy of the forgoing Notice to the Court, by first-class United States Mail, postage prepaid and addressed upon the following:

Tara S. Knee
Assistant Attorney General/General Counsel
Alabama Department of Corrections - Legal Division
P. O. Box 301501
Montgomery, Alabama 36130-1501

Egbuonzi Zephyr

Zephyrinus Egbuonu
(Acting Pro-Se)

27041-265 FDC

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ZEPHYRINUS EGBUONU,
#27041-265

Plaintiff,

v.

CAPTAIN BARRETT, *et al.*,

Defendants.

*

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*

2:07-CV-998-WKW

AFFIDAVIT RESPONSE TO TERENCE McDONNELL'S AFFIDAVIT

Before me, the undersigned authority, Notary Public in and parish and State of Louisiana at large, personally Zephyrinus Egbuonu, who being known to me and being by me first duly sworn deposes any says on oath as follows:

My name is Zephyrinus Egbuonu, I am presently an immigration civil detainee at the Federal Detention Center in Oakdale, Louisiana and a former inmate of Kilby Correctional Facility, Mount Meigs, Alabama from September 2005 to August 1, 2006. Ex. 28 I am over nineteen (19) years of age. Kilby Correctional Facility ("KCF") is a Alabama Department of Corrections ("ALDOC") system.

Warden Terrence McDonnell was the Warden at Kilby Correctional Facility until March 2006. In March 2006, Prison Official Warden McDonnell was promoted to ALDOC Associate Commissioner over the programs and assigned to the Central Office in Montgomery, Alabama thereof Prison Official McDonnell was aware

EXHIBIT 6

and possessed knowledge of Inmate Egbuonu complaints and events that took place until his promotion to Central Office and or Prison Official Warden McDonnell has failed in his duties as a KCF Head Official and failed to supervise his officials and subordinates including Prison Officials Deputy Warden Rowell and Captain Barrett and others. Ex. 41-57, 100-107.

Prison Official Warden McDonnell's affidavit dated December 3, 2007 under the Civil Action: 2:07-CV-999-WKW which provides as follows:

"I responded to a complaint filed by Inmate Egbuonu in September, 2007, Civil Action: 2:07 CV-685-ID, regarding him allegedly being denied access to the Inmate library."

Defendants' Exhibit ("Def. Ex.") 2. However, Prison Official Warden McDonnell's affidavit dated December 10, 2007 under Civil Action 2:07-CV-685-ID was not filed to court nor provided to Inmate Egbuonu until February 13, 2008. Ex. 65 Prison Official Warden McDonnell was aware and knew in fact as of December 2007 that he has not responded to the complaint filed by Inmate Egbuonu in September, 2997, Civil Action: 2:07-CV-685 ID, but totally disregarded and told the Honorable Court under the Civil Action: 2:07-CV-998-WKW that he has responded to the complaint, such Prison Official Warden McDonnell atatement before the Honorable Court may be incorrect and inaccurate statement before the Court.

Prison Official Warden McDonnell was responsible for the administrative operation of the KCF and also holds supervisory position at the KCF. Prison Official McDonnell knew of the on-

going stated below access violations at the ALDOC Legal Division and KCF law library and mail room under custom policy or policy and perpetually failed to act to prevent the ongoing access violations for months and years and allowed his officials and subordinates and others to perpetually violate prisoners like Inmate Egbuonu's constitutional right under First and Fourteenth Amendments of the United States Constitution.

No records before the Honorable Court depicted the authenticated law library opening hours to ensure that inmate workers receive adequate law library hours for their legal research. Inmate Egbuonu has filed complaints requesting for: 1) current law library schedule opening hours; 2) adequate access to ingress and egress to law library, however Prison Officials did not respond to Inmate Egbuonus' complaints. Moreso, the Kilby Correctional Facility prison officials uses the institution law library for showcase and meeting and visiting, and as such is not for inmates to spend adequate time inside the law library to research and commence their pleading to courts; Ex. 41, 42, 62, 71-73, and Prison Official McDonnell was aware and possessed knowledge but recklessly disregarded and acted with deliberate indifference and did nothing to correct the deficit.

The existing law library rule at the time of event required every inmates to sign-in to ingress the law library once a day, the rule did not required inmates to sign-out to egress the law library, for instance, if an inmates ingress to law library for two (2) minutes prior to "Gate 3 Prison Officials" close the law library, that two (2) minutes spend would be count as one

(1) day. Therefore, Prison Official Warden McDonnell's statement in his filed affidavit that Inmate Egbuonu visited the law library 172 days from October 2005 to July 31, 2006 has failed to address the issue that Inmate Egbuonu complained of , and has failed to establish what the KCF institution law library memo meant by 172 days on the basis whether the actually time Inmate Egbuonu spend in the law library was 172 minutes or 172 hours from October 2005 to July 31, 2006. Def. Ex. 13.

Inmate workers and others in the KCF are being denied adequate access to the library on the basis for instance, 2nd shift kitchen work hour is from 10 AM to 6 PM, however the Prison Official kitchen steward required 2nd shift kitchen inmate workers to report to the kitchen an hour (1) or an hour and half (1.5) early to get ready to serve the inmate general population. Ex. 41-43 The inmate law library open Monday to Friday from 8 AM to 4 PM and on Saturday 3 PM to 6 PM. Def. Ex. 2, 3, 4.

Prison Official at "Gate 3" denied inmates access to ingress and egress to the law library during the morning hours in prt prior to launch. Ex. 62, 71-73

The 2nd shift kitchen inmate workers: 1) have no ample access to the law library; and 2) are being denied their constitutionally protected rights of access to the court. Prison Officials Warden McDonnell was the Head Official at the KCF and was aware, possessed knowledge that 2nd shift kitchen inmates workers are being denied access to law library pursuant to the ALDOC Administrative Regulation and Constitution of United States, but totally and recklessly disregarded and acted the deliberate

indifference when he failed to take actions to correct the inadequate access deficit of inmate workers right of access to the courts. Ex. 101, 102, 106

At no time that ALDOC AR indicated that the KCF law library shall provide extra time to KCF permanent party only but not the others and if so, such order may violate equal protection clause under the Fourteenth Amendment of the Constitution. Ex. 102 Prison Official Warden McDonnell's actions and inactions were the proximate caused of Inmate Egbuonu's irreparable harm and injury and loss and Inmate Egbuonu's constitutional rights violations.

Prison Official Warden McDonnell failed to train his Prison Officials as with respect to above, failed to implement and enforce ALDOC policy and regulation as relate to safety and safety precautions, failed to implement a policy and or implemented a policy so deficient that the policy itself is a repudiation of Constitutional rights' and was the moving force of the Inmate Egbuonu's constitutional right violations.

Prison Official Warden McDonnell was the true author of KCF Standard Operating Procedure Number: VII-6 "Inmate Mail Privileges" which provides:

"3. All incoming letters will be inspected for contraband, money and/or abuse of mail privileges before the delivery to the inmate

a. Any type of internet material is prohibited"

KCF Standard Operating Procedure Number: VII-6 (II)(A); Def Ex. 10, in the 21st Century irrespective of the First and Fourteenth Amendment of the Constitution of the United States.

Prison Official Warden McDonnell has a pattern of implement-

ing a custom policy that may violates inmates' constitutional right rights and has done nothing to correct such custom policy that is/was inconsistent with the ALDOC policy and regulation, and constitutional of the United States. Ex. 3, 44-48, 61, 81, 100-106 and see Def. Ex. 10

Prison Official in his filed affidavit failed to address whether the KCF Standard Operating Procedure ("SOP") Number VII-6 as with respect to internet incoming mail policy is consistent with the ALDOC AR 018, 026, 214, 241, 412, 448, States and Federal laws and First and Fourteenth Amendments of the United States Constitution. EX. 100 - 102, 104, 106-107 and Def. Ex. 3, 5, 10

Prison Official Warden McDonnell failed to address Inmate Egbuonu's civil complaint in his filed affidavit and failed to disclose to the Honorable Court whether the KCF SOP No. VII-6 dated 01-27-03 was effective under the ALDOC AR 018 dated 03-19-85 and ineffective under the ALDOC AR 018 dated 03-29-05 and or prison officials involved in this Inmate Egbuonu's claim for relief have failed to abide by the new ALDOC AR 018 dated 03-29-05 and constitution of the United States. Ex. 100, 107, and Def. Ex. 10

Prison Official Warden McDonnell failed: 1) to abide by the 2005 ALDOC AR policies, Def. Ex. 10; 2) to operate within the parameters specified and set forth by the laws of the State of Alabama in conjunction with the 2005 ALDOC AR policies and directive of ALDOC Commisioner, Ex. 100, 107, DDef. Ex. 10; 3) to ensure that the KCF SOP's are complete current and consistent within the parameters specified and set forth by the laws of the State

of Alabama and Constitution in conjunction with the ALDOC AR; 4) to updated SOP annually to be consistent with ALDOC AR 018, 448, Ex. 100, 107. No record presented by the Prison Officials in this Inmate Egbuonu's claim for relief that indicated the KCF SOP VII-6 has been: 1) current; 2) updated annually; 3) consistent with ALDOC AR, as required by ALDOC AR 018. Ex. 3, 44-48, 61, 81, 99-107, and see Def. Ex. 10.

Prison Official Warden McDonnell was aware of the 2005 ALDOC AR 018, 026, 214, 219, 231, 403, 412, 448 mandate but recklessly disregarded and acted with deliberate indifference and failed to abide by the directive of ALDOC AR as with respect to Inmate Egbuonu's numerous request for: 1) access to legal materials (including legal citation decisions, statutes, resources, informations which were not available in the KCF institution law library; 2) right of access to adequate law library when legal citation decisions cited by government were not available in the law library and inmates were not allow to use the law library computer desktop database containing current legal citation decisions to research and prepare their respective court pleading; 3) rights of access to the Court; 4) right of access to incoming mail containing internet generated downloaded material text prints of legal citation decisions, resources and informations and others which were not available in the KCF law library, when Prison Official Warden McDonnell and others enforced the KCF SOP VII-6 dated 2003 and other custom policy against Inmate Egbuonu and deprived Inmate Egbuonu of his constitutional right and caused Inmate Egbuonu to suffer irreparable harm and injury. Ex. 2, 3, 41-42, 44-

48, 53-58, 61-62, 68, 71-73, 81, 83, 87, 93, 100-107, and Def. Ex. 10

Genuine issue of material fact existed as to whether the Prison Official Warden McDonnell acted alone and did seek advise from the General Counsel of ALDOC Legal Division prior to the enactment of the KOP SOP No. VII-6 in 2003 and or Whether the enactment of KOP SOP No. VII-6 in 2003 was soley based on the advise of the General Counsel and or both the Prison Official Warden and General Counsel have worked together agreed to enactment of KOP SOP No. VII-6 as with respect of Inmate Egbuonu's civil complaint? Ex. 5, 101, 107, and Def. Ex. 10.

Genuine issue of material fact existed as whether the Prison Official Warden McDonnell did rely on Old ALDOC and or KCF SOP manual(s) to denied Inmate Egbuonu access to internet material text prints containing legal citation decisions that were not available in the institution law library, and in fact KCF SOP VII-6 (II)(A)(3) superseded the 2005 ALDOC AR 018, 448? Ex. 100, 1007 and Def. Ex. 10

Prison Official Warden McDonnell enacted KCF SOP VII-6 was the moving force behind Inmate Egbuonu's constitutional rights violations when Inmate Egbuonu was denied access to receive incoming mail containing internet generated downloaded material text prints of legal citation decisions, statutes, resources, informations and others which were not available in the KCF law library. Moreso, the Prison Warden McDonnell enacted KCP SOP VII-6 was the moving force behind Inmate Egbuonu's constitution rights violations when Inmate Egbuonu was denied access to legal material and in doing so denied him access to the Court.

McDonnell

Prison Official Warden McDonnell's internet policy and regulation violated Freedom of Information, First Amendment; may have violated Commerce clause, Article I, Section 8; restricted the advance of technology anf its innovation; conflict with rehabilitation and education programs with the prison.

Prison Official Warden accepted and honored the Lexis/Nexis contract with ALDOC system to provide legal material DVD formats on a quarterly basis to the KCF institution law library two desktop computer database for the law librarian clerk, Def. Ex. 3, 4, 5, however, he rejected denied inmates like Inmate Egbuonu from receiving receive incoming mail containing internet-generated downloaded current legal citation decisions material text prints from Lexis Nexis and West Laws which were not available in the KCF law library. Ex. 2, 44-48, 61, 81, 81. 83

Inmate Egbuonu states that the Prison Official Warden McDonnell's internet prohibit policy was arbitrary and unjustifiable when he failed to abide by established procedures or standards and evince improper objective and was not done for legitimate and neutral reasons.

Inmate Egbuonu next states that he fail to see how Prison Official Warden McDonnell complete denial of access to constitutionally protected materials (regardless of behavior) further behavior management or rehabilitation.

Inmate Egbuonu further states he fail to see as to alternative means of exercising the stated above right access through inadequate law library and legal assistance is not an adequate substitute for reading internet generated downloaded material

text prints.

Prison Official Warden has made no effort to explain why incoming mail containing internet generated downloaded material text prints are more susceptible to being used to deliver contraband than other items such as printed text material from computer and photocopies from a text book.

Inmate Egbuonu states there would not seen to be much of a penological interest in prohibiting access to internet downloaded material text prints but not books, computer word processor material text, magazine, television, radio and other programs containing similar content that inmates have access to.

Prison Official Warden McDonnell has offered no justification for enforcement of the regulation restricting access to internet material text prints, access to internet material of out of state legal citation decisions and its accompanying text prints which were not available at the KCF law library, in doing so under his enforced policy denied Inmate Egbuonu access to legal materials and access to the court despite it was entirely foreseeable that denial and arbitrary denial of the out of state legal citation decisions cited by the Alabama State Judicial System would obstruct Plaintiff's ability to prepare his petition and commence his pleading before the Federal Court. Ex. 44-48, 61, 81, 83, 38.

Prison Official Warden have not presented the Court with an adequately records that he knew of and received from ALDOC and ALDOC Legal Division for the Honorable Court meaningfully evaluate the asserted governmental interest, whether a valid and rational connection exists between the regulation and that interest, wheth-

McDonnell

er alternative meanss of exercising the constitutional rights remain available to inmates like Inmate Egbuonu, the effect accomodating the stated above rights would have on contractors, guards and inmates, or the absence of ready alternatives. Consequently, Prison Official told the Honorable Court in his filed affidavit:

".. the above response is the extent of my knowledge involving Inmate Egbuonu's allegation in this complaint"

despite that he was aware, possessed knowledge about the unconstitutional conducts and situations existed at the KCF at the time he was the KCF Warden and author of KCF SOP No. VII-6. Def. Ex. 10.

If the Honorable Court accept the affidavit of Prison Official Warden McDonnell to the truth and best of his recollection, then it would mean that Prison Official Warden failure to abide by ALDOC AR, and failure to train and supervise Prison Official and enforcement of unconstitutional policy and regulation is acceptable. Ex. 100-107, Def. Ex. 10

Prison Official Warden McDonnell has a Constitutional obligation to take reasonable measures to guarantee inmates like Inmates Egbuonu has: 1) access to legal materials (legal citation decisions, statutes, resources, informations and others); 2)right of access to incoming mail containing internet generated downloaded material text prints; 3) right of access to the adequate law library, rights of access to the courts; 4) train and supervise Prison official on how conduct their duties and protect prisoners' constitutional rights such as to develop and or enforce a ploicy of sharing informations regarding legal materials and deviate from

McDonnell

unconstitutional policy that violates prisoners' constitutional rights. Ex. 44-58, Def. Ex. 10

Prison Official Warden McDonnell failed to fulfill and meet the stated above described Constitutional obligations and his failure to fulfill and meet the stated above Constitutional obligations were the moving force in violation of the Inmate Egbuonu's Constitutional rights by the prison officials at the KCF and ALDOC.

Prison Official Warden McDonnell acted negligently, recklessly disregarded and acted with actual malice or intent and with deliberate indifference when he did nothing and failed to correct and protect Inmate Egbuonu's constitutional rights after implemented and enforced a policy that violated Inmate Constitutional rights. Ex. 2, 3, 41-42, 44-48, 53-58, 61-62, 67, 68, 71-73, 81, 83, 87, 93

Prison Official Warden McDonnell violated Inmate Egbuonu's constitutional rights when under his enacted policy and others failed to provide Inmate Egbuonu the stated above constitutional obligations: 1) access to the legal materials not available at the KCF law library; 2) access to adequate library; 3) access to the court; 4) access to incoming mail containing internet material text prints; 5) train and supervise his prison officials on howto conduct their duties and protect prisoners' constitutional rights.

Prison Official Warden McDonnell conduct actions and inactions as with respect to the Egbuonu's Constitution rights violation, were the moving force behind the violations Inmate Egbuonu's suffered and has caused Inmate Egbuonu irreparable

suffer, harm and injury.

Prison Official Warden McDonnell acted with deliberate indifference when he failed to provide inmates like Inmate Egbuonu the legal citation decision he requested and a way of knowing when the State, Federal, United States Supreme Courts announce new decisions. Inmates at the KCF have no access to current decision as announced by the courts and have no access to desktop computer database which happens to be updated on a quarterly basis. Ex. 52

Prison Official Warden McDonnell acted with deliberate indifference not to protect Inmate Rgbuonu's constitutional rights, and failed to advise the prison officials that internet prohibit violates inmates like Inmate Egbuonu's constitutional rights as with respect to incoming mails containing internet material text prints. Ex. 44-48 and Def. Ex. 3, 4, 10

Prison Official Warden McDonnell has caused Inmate Egbuonu to suffer irreparable harm and injury when his policy, custom and conducts failed to provide Inmate Egbuonu access to the law library desktop computer database for research, adequate law library, legal materials cited by the government and used to deny Inmate Egbuonu his claim for relief.

Prison Official Warden McDonnell has no policy in place to provide Inmate Egbuonu legal citation decisions outside Eleventh and Fifth Circuits Inmate Egbuonu needed to review, commence his pleading timely to Federal Court and in doing so violated Inmate Egbuonu's Constitutional rights.

Prison Official Warden McDonnell recklessly disregarded that the stated above Constitutional obligations and are to prev-

McDonnell

ent first unconstitutional conduct actions and inactions from occurring and: 1) perpetually failed to apply and enforce rules, precaution and due process to bar it from occurring; 2) perpetually failed to train his subordinates and contractors to and protect Inmate Egbuonu's constitutional rights under the First and Fourteenth Amendments; 3) failed to train and supervise his subordinates as with respect to the stated above described constitutional obligations and as a result Inmate Egbuonu has suffered under Prison Official Warden McDonnell administrators/supervision and continued to suffer.

It would be unconstitutional for Prison Official Warden McDonnell to deny Inmates Egbuonu's access to the stated above described regardless of whether that denial is occurring under the plain lanuage of the ALDOC, KCF, Contract Legal Counsel regulation(s) or virtue of the manner in which prison officials were screening the access. Ex. 2-3, 41-42, 44-48, 53-58, 61-62, 67-68, 71-73, 81, 84, 87, 93, 100-107.

Prison Official Warden McDonnell was the Head and Warden of the KCF and has failed as administrators to establish training, supervision, advise, discipline and terminate prison officials and contractors which would have: 1) prevented and discourage prison officials and contractors from violating inmates like Inmate Egbuonu's constitutional rights; 2) alerted Alabama Department of Justice and or Judicial System to provide the ALDOC and KCF the legal materials Inmate Egbuonu requested and needed to commence his exhausted States' denied writ. Ex. 1, 13, 14

Prison Official Warden McDonnell has failed to coordinate

McDonnell

Inmate Egbuonu request for legal materials with the appropriate office that could have assisted and has failed to intervene to Inmate Egbuonu request.

Prison Official Warden McDonnell's policy or custom has failed to provide inmates like Inmate Egbuonu the legal materials he needed when the prison officials forced Inmate Egbuonu to depend on the inmates' law librarian clerks to conduct search of legal materials including legal citation decisions from the computer database for him; Ex. 52, and as a result Inmate Egbuonu was denied his numerous current legal citation decisions that he needed to review that were in the law library desktop computer desktop computer database. Def. Ex. 3, 4, 5.

Prison Official Warden McDonnell failed to provide Inmate Egbuonu the legal material materials and assistance he requested and necessary for his legal research despite he was aware and possessed knowledge that the KCF enacted law library and mailroom policy would not allow Inmate Egbuonu to receive the stated above described access, but he recklessly disregarded and acted with deliberate indifference and failed to intervene.

Prison Official Warden McDonnell was a KCF final policy maker has failed to establish how over 900 inmates at KCF can adequately access to law library available two desktop computer database for their respective research and shepardize and meet deadline to commence their pleading in various courts.

Prison Official has failed to provide inmates adequate law library and access to the Court when: 1) he failed to provide inmates with adequate number of desktop computer database in the

McDonnell

absence of current books on the law library shelves for inmates' research and preparation of their legal documents to serve, file to the courts to commence personal liberty interest. Ex. 52

Prison Official Warden McDonnell and others are afraid and have no interest to rehabilitate inmates in the State of Alabama in the 21st Century technology, when he perpetually deny inmates direct access to use the inmates' two desktop computer database containing current legal citation decisions and forced inmates like Inmate Egbuonu to depend on his law librarian clerks to provide him his research legal citation decisions and Inmate Egbuonu has no way of knowing and verifying whether the inmate law librarian actually do conduct the research he requested. Ex. 52

Prison Official was aware and possessed knowledge that KCF institution law librarian clerks has no time for assisting indigent inmates who has no money or items to pay inmate law librarian clerks for the computer database crisp and precise research but Prison Official Warden McDonnell totally recklessly disregarded acted with deliberate indifference to allow his prison officials to deny inmates like Inmate Egbuonu access to use the inmates' law library desktop computer to conduct his research in the 21st Century technology but access were given to other inmates law librarian clerk.

Inmate Egbuonu has never waived his personal interest to conduct his legal research on the law library desktop computer database, however the Prison Official Warden McDonnell and others custom and policy forced Inmate Egbuonu to surrender his research to the law librarian clerk which lacks knowledge about Inmate Egbuonu case or matter. Inmate has suffered under Prison Official

McDonnell

Warden McDonnell's policy and custom and supervision.

Inmate Egbuonu was denied access to his incoming mail containing internet generated downloaded legal material text prints including legal citation decisions that were not available at the KCF institutional law library pursuant to the enacted KCF SOP No. VII-6. Ex. 2, 44-48, 53-58, 61, 67-68, 81, 83-87, 93, 100-107, and Def. Ex. 10.

Prison Official Warden McDonnell failed to abide by their ALDOC AR and Constitution of United States and failed to seek legal advise from appropriate office as with respect to stated above described access issue and failed to train his prison official as with respect to how to conduct their duties and to protect prisoner's constitutional rights when he deliberately enacted a custom and or policy contrary to the Constitution.

Prison Official Warden McDonnell in his filed affidavit failed to address whether internet material is a threat to the safety and security of the public, staff, inmates and at KCF institution but not at Staton Correctional Facility ("SCF") and other institution in Alabama. Ex. 44 - 48, 100, 106 - 107, and Def. Ex. 1, 2, 3, 4, 5.

Inmate Egbuonu was not housed at a maximum security prisons at Alabama state rather he was housed at the KCF permanent party minimum/medium security institution and inmates at KCF permanent party have a grater degree of freedom than inmates at higher security facilities because they pose fewer security risks. Prison Official Warden McDonnell in his filed affidavit failed to explain why other correctional facility systems can get along without such

McDonnell

restrictive rules prohibiting inmates like Inmate Egbuonu from receiving incoming mails containing internet materials text prints but the KCF in Alabama State can't. Indeed, the failure of Prison Official Warden McDonnell to explain another correctional facility institution with the same compelling interests was able to accommodate the same internet material text prints may constitute a failure to establish that Prison Official Warden McDonnell and others were using the least restrictive.

Prison Official Warden McDonnell fails to explain why it does not have a similarly restrictive policy enforce on other computer material text prints and media since the interest in whatever it may be are no less compelling for computer material text prints and media.

Prison Official Warden McDonnell and others forced inmates like Inmate Egbuonu to choose between following his First and Fourteenth Amendments rights and belief or abandoning them satisfies the irreparable harm and injury, and the balance of irreparable harm and injury, and balance of hardship favors the Inmate Egbuonu and Prison Official Warden McDonnell have violated Inmate Egbuonu's First and Fourteenth Amendments of the United States Constitution constitute irreparable harm and injury.

Inmate Egbuonu has never failed to follow instructions, institutional rules and regulations and safety guidelines given to him by the prison officials and others, otherwise Inmate Egbuonu would have received a sanctions, citations, and disciplinary actions pursuant to ALDOC AR 403; Ex. 105, but Inmate Egbuonu has never violated any of the ALDOC AR rules and regulations and prison official

McDonnell

and others have not stated otherwise or prove the same. Ex. 28 At no time sanctions, citations, denial, disciplinary actions issued to Inmate Egbuonu by prison officials and others for: 1) filing any false statement or complaint for the stated above described Constitutional obligations and access; 2) failure to follow direct prison official order; 3) failure to follow law librarian clerks order; 4) failure to request/file access to legal materials and law library form N944L i; 5) Filing any false allegation against prison officials, contractors and law librarians; 6) violating of ALDOC AR rules or regulation. Ex. 2, 28, 44-48, 53-58, 61, 67-68, 81, 83-87, 93, 100-107, and Def. Ex. 11, 12

Prison Official Warden McDonnell and others are responsible for the deficiency of the internet material incoming mails and law library final policies and regulation and because they instituted that system, defined the obligations of the mail room clerk and law library and communicate with the ALDOC Legal Division, and as a result, the Prison Official Warden McDonnell and others are liable for their own actions which impeded the Inmate Egbuonu's access to the incoming mails containing internet material text prints, legal material, adequate law library, access to the courts and Inmate Egbuonu's actual irreparable harm and injury.

Prison Official Warden McDonnell and others facilitate prison conducts, approve it, condone it and turn a blind eye for fear of what he might see in other words act either knowingly or with deliberate reckless indifference when he failed to response to Inmate Egbuonu's complaint letter or intervene and correct the unconstitutional conducts by his prison officials. Ex. 2, 3, 44 -

McDonnell

48, 53-58, 61, 67-68, 81, 83, 87, 93, 100-107

Prison Official Warden McDonnell and others are responsible for: 1) institutional Standard Operating Procedures ("SOP"), Ex. 100; 2) obtain legal advise from the ALDOC legal division, Ex. 101; 3) law library supervisions including operation and maintenance, Ex. 102; 4) training programs for prison officials and subordinates and inmate law librarian clerks, Ex. 103; 5) ensuring all newly appointed supervisors attend supervisor training as with respect to law library, Ex. 104; 6) disciplinary hearing procedures, Ex. 105; 7) Inmate mail, Ex. 107, however Prison Official has failed to correct fulfill the stated above and failed to address Inmate Egbuonu's civil complaint issues presented to him despite that he was the KCF Head and Warden at the time the event took place in part.

Inmate Egbuonu's evidence before the court is not only believable prior to discovery, but also compelling that Prison Official Warden McDonnell and others were aware, possessed knowledge that Plaintiff have never been to, nor had contact with the State of Alabama, was falsely labelled fugitive from Alabama in the 21st Century and extradited to Alabama State inconsistent with Federal laws and Constitution of the United States and Universal Declaration of Human Rights, subjected to trial before the Alabama State Tribunal pursuant to the Alabama State Code **§ 13A-8-196** with the hometown jury of the Alabama State's accuser where no crime or element of crime was committed. Ex. 3, 4, 12, 14, 15-18, 27, 30, 98

Prison Official Warden McDonnell was aware and possessed

McDonnell

knowledge that Inmate Egbuonu was tried in the Alabama State in absence of the Constitutional due process and jurisdiction of the United States irrespective that the Constitution mandate criminal trial shall be held where the crime was committed. Ex. 3, 4, 12, 14, 15-18, 27, 30, 67, 97, 98, U.S.C. Article I, III, IV, VI and U.S.C. Amendment 5, 6, 8. However, Prison Official Warden McDonnell worked alone and together with others to denied deprived Inmate Egbuonu the legal citation decisions he requested that he needed to conduct research, prepare, file his exhausted State's writ before the Federal Court and also denied him access to receive incoming mail containing internet generated downloaded material text print in part including the legal material decisions that Inmate Egbuonu requested which were not available in the institution law library. Ex. 44-48, 51-56, 67, 83

Prison Official Warden McDonnell was aware and possessed knowledge of the above described and have taking every step necessary to prohibit Inmate Egbuonu from informing or notifying the Federal Court timely about the State of Alabama new enacted code § 13A-8-196 which is in contrary to Federal laws and Constitution of United States, International Treaties and Universal Declaration of Human Rights, and as a result of his actions and inactions, Inmate Egbuonu have suffered irreparable harm and injury and damages and loss and continuous incarceration/detention and in addition to as his direct appeal is still with the Alabama Court of Criminal Appeals for rehearing since March 6 or 7, 2008. Ex. 98

Prison Official Warden McDonnell failure to meet the stated above described Constitutional obligation and failed to train and

McDonnell

supervise his prison officials as with respect to Inmate Egbuonu's civil complaint. Inmate Egbuonu re-alleges and incorporates by references to his attached exhibits, filed civil complaints and his response to Prison Official Warden filed Affidavits and states that Prison Official Warden McDonnell has violated Inmate Egbuonu's First, Eighth and Fourteenth Amendments Constitutional rights, Federal and State laws and regulations respectively as with respect to Inmate Egbuonu's claim for relief and has engaged in intentional or reckless conduct, the conduct extreme and outrageous, the conduct caused the Plaintiff sleeplessness, emotional distress, damages, economic and non-economic loss and was severe. Prison Official McDonnell has worked alone and together with others to form a custom policy which violates Inmate Egbuonu's First and Fourteenth Amendments' constitutional rights, Federal and State law and regulations respectively in all manner.

Egbuonu Zephyrinus
Zephyrinus Egbuonu
(Acting Pro-Se)

STATE OF LOUISIANA**OAKDALE, LOUISIANA**

Sworn to and subscribed before and under my hand official seal this the 19TH day of March, 2008.

Zephyrinus Egbuonu
Notary Public

My Commission expires: 07/03/2008

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ZEPHYRINUS EGBUONU,
#27041-265

Plaintiff,

*

v.

*

2:07-CV-998-WKW

CAPTAIN BARRETT, *et al.*,

*

Defendants.

*

AFFIDAVIT RESPONSE TO RICHARD ALLEN'S AFFIDAVIT

Before me, the undersigned authority, Notary Public in and parish and State of Louisiana at large, personally Zephyrinus Egbuonu, who being known to me and being by me first duly sworn, deposes and says on oath as follows:

My name is Zephyrinus Egbuonu, I am presently an immigration civil detainee at the Federal Detention Center in Oakdale, Louisiana and a former inmate of Kilby Correctional Facility, Mount Meigs, Alabama. I am over nineteen (19) years of age.

Kilby Correctional Facility ("KCF") is an Alabama Department of Corrections ("ALDOC") system, and KCF and every prisoner in the ALDOC are required to work as well as former Inmate Zephyrinus Egbuonu.

Commissioner Richard Allen was the State Chief Deputy Attorney when Alabama State Code § 13A-8-196 was enacted in 2001 and amended in 2003; Ex. 12. He was the State Deputy Attorney when Inmate Egbuonu filed his states' writ of habeas corpus appellant

EXHIBIT 5

brief before the Alabama Court of Criminal Appeals in August 2004; Ex. 39, challenging the Constitutionality of the Alabama State Code 13A-8-196 which automatically placed trial venue where Alabama State accuser resides or found in the 21st Century irrespective no overt act nor crime or element of crime was committed with and in Alabama State. Ex. 15-18 All crime commenced continued consummated in Los Angeles County, California. Ex. 4 Commissioner Allen was also the State Chief Deputy Attorney when the Alabama Court of Criminal Appeals held that the Alabama Code § 13A-8-196 is not unconstitutional. Ex. 1, then see Ex. 4, 14, 15-18, 39.

Commissioner Allen served as Alabama State Chief Deputy Attorney under Alabama Attorney General and retired in December 2004; few weeks after Alabama Court of Criminal Appeals denied Inmate Egbuonu his States' writ. Ex. 1 Commissioner Allen was appointed as ALDOC Commissioner in about February 2006 to succeed ALDOC Commissioner Donal Campbell who authored the 2005 ALDOC Administrative Regulation ("AR"). Ex. 99-107 He was appointed by Governor Bob Riley in February 2006 to implement the recommendations of his task force on prison crowding and in the process to give priority as follows: 1) public safety; 2) safety of our corrections officers and department staff; 3) provide humane and Constitutional conditions of incarceration in all facilities; 4) provide educational and job training where appropriate; 5) and to ensure that the spiritual needs of those in our prisons are met.

Inmate Egbuonu states that Commissioner Allen have not presented the Court with an adequately developed records that he

received from Inmate Egbuonu for the Court meaningfully evaluate the asserted governmental interest, whether a valid and rational connection exists between the regulation and that interest, whether alternative means of exercising the Constitutional right remain available to Inmate Egbuonu, the effect accomodating the right would have on Contractors, guards and inmates, or the absence of ready alternatives. Consequently, Commissioner Allen told the Court that he did not know the Inmate Egbuonu in this matter; Defendants ("Def.") Ex. 1, despite that Inmate Egbuonu did notified and informed Commissioner Allen and others about the unconstitutional situation that existed at KCF. If the Court accept the affidavit of Commissioner Allen to be the truth of matter then it would mean that the United States Postal Service delivered Inmate Egbuonu sent letters to Commissioner Allen to a wrong address every time, however that was not the case here because Inmate Egbuonu's letter was delivered to the Commissioner Allen address. Ex. 67, 82-84, 91, 93, 97 Commissioner Allen have not established that it is entitled to a relief as a matter of law on this claim. Commissioner Allen has a Constitutional obligation to take reasonable measures to guarantee Inmate Egbuonu has: access to legal materials (legal citations, statutes resources, informations), right of access to the adequate law library, rights of access to the Courts, right of access to incoming mail containing internet generated downloaded material text prints, train and and supervise his officials on how conduct their duties and protect prisoners Constitutional rights such as to develop and or enforce a policy of sharing informations regarding legal mater-

ials and to deviate from unconstitutional implemented policy that violates prisoners' Constitutional rights. Ex. 98-107 The Commissioner Allen failed to fulfill and meet the stated above described Constitutional obligations and his failure to fulfill and meet the stated above Constitutional obligations were the moving force in violation of the Inmate Egbuonu's Constitutional rights by the prison officials at the KCF and ALDOC. Commissioner acted negligently, recklessly disregarded and acted with actual malice or intent and with deliberate indifference when he did nothing and failed to correct and protect Inmate Egbuonu's Constitutional rights after being informed and notified by Inmate Egbuonu Ex. 67, 82, 83, 84. Commissioner violated Inmate Egbuonu's Constitutional rights when he failed to respond and provide Inmate Egbuonu the stated above Constitutional obligations nor provide or make available an alternative solution. Ex. 67, 83. Commissioner Allen conduct actions and inactions as with respect to the Egbuonu's Constitution rights violations by prison officials were also the moving force behind the violations and has caused Egbuonu's irreparable suffer, harm and injury. Commissioner Allen was a final decision maker regulating whether an inmate shall not receive or have access to legal material, access to adequate law library, access to the Court, and incoming mails containing internet material text prints.

At no time did Commissioner Allen provide or make available the legal materials Inmate Egbuonu requested which were not in the KCF law library nor made available alternative in which Inmate Egbuonu could receive it. Ex. 67, 83

Commissioner has no policy and information in place to provide Inmate Egbuonu with the legal citation decisions that he requested and in part cited by the government against Inmate Egbuonu; Ex. 1, 23, 52-56, and totally and recklessly disregarded and acted with deliberate indifference and did nothing to correct deficit and failed to: a) fashion a policy addressing Egbuonu's complaint after being notified and informed; 2) failed to make a good faith effort to implement or enforce the policy rules and regulation to protect Inmate Egbuonu's Constitutional rights; 3) failed to train his officials on how to conduct their duties, abide by ALDOC AR and to protect inmates like Inmate Egbuonu from being denied access to the stated above Constitutional obligations; 4) failed to respond to Inmate Egbuonu's complaints requesting for assistance. Ex. 67, 82-84, 100-107

At no time Commissioner Allen responded to Inmate Egbuonu's letters to him requesting his assistance to obtain the legal material necessary and needed by Inmate Egbuonu to review, research, prepare, serve, file and commence federal Court as with respect to Inmate Egbuonu's exhausted States' writ; Ex. 1, 14, and other civil rights litigation.

Commissioner Allen delays and not to respond to Inmate Egbuonu's request was unreasonable based upon the information known to him and as such, Commissioner Allen acted with deliberate indifference not to protect Inmate Egbuonu's Constitutional rights, and failed to advise the prison officials that internet prohibit violates inmates like Inmate Egbuonu's Constitutional rights as with respect to incoming mails containing internet

material text prints. Ex. 44 - 48, then Def. Ex. 3, 4, 10

Commissioner Allen has caused Inmate Egbuonu to irreparable suffer, harm and injury when his policy, custom and conducts failed to provide Inmate Egbuonu access to the law library desktop computer database for research, adequate law library, legal materials including legal citations cited by the government and used to deny Inmate Egbuonu his claim for relief. Commissioner has no policy in place to provide Inmate Egbuonu legal citation decisions outside Eleventh and Fifth Circuits Inmate Egbuonu needed to review, commence his pleading in time to Federal Court and in doing so violated Inmate Egbuonu's Constitutional rights.

Commissioner Allen recklessly disregarded that the stated above described Constitutional obligation and is to prevent the first unconstitutional conduct actions and inactions from occurring and: 1) perpetually failed to apply and enforce rules, precaution and due process to bar it from occurring; 2) perpetually failed to train his subordinates and contractors to and protect Inmate Constitutional rights under the First and Fourteenth Amendments; 3) failed to train and supervise his subordinates in respect to the stated above described Constitutional obligations and as a result Inmate Egbuonu has suffered under Commissioner Allen's administrators/supervision and continued to suffer.

It is unconstitutional for Commissioner Allen to deny Inmates Egbuonu's access to the stated above described regardless of whether that denial is occurring under the plain language of the ALDOC, KCF, Contract Counsel regulation(s) or by virtue of the manner in which prison officials were screening the access.

Ex. 2-3, 41-42, 44-48, 53-58, 61-62, 67-68, 71-73, 81, 84, 87, 93,

Allen

100-107. Commissioner has failed as administrators to establish training, supervision, advise, discipline and terminate prison officials and contractors which would have: 1) prevented and discourage prison officials and contractors from violating inmates like Inmate Egbuonu's Constitutional rights; 2) alerted Alabama Department of justice and Judicial Systems to provide the ALDOC and KCF the legal materials Inmate Egbuonu requested and needed to commence his exhausted States' denied writ. Ex. 1, 13, 14 Commissioner Allen has failed to coordinate Inmate Egbuonu request for legal materials with the appropriate office that would have assisted and has failed to respond to Inmate Egbuonu's request. Ex. 67, 82-84

Commissioner policy or custom has failed to provide inmates like Inmate Egbuonu the legal materials he needed when the prison officials forced Inmate Egbuonu to depend on the inmates' law librarian clerks to conduct search of legal materials including legal citation decisions from the computer database for him. Ex. 52 and as result denied him numerous current legal citation decisions that he needed to review that were in the law library desktop computer database. Def. Ex. 3, 4, 5

Commissioner Allen failed to provide Inmate Egbuonu the legal materials and assistance he requested and necessary for his legal research despite that he was notified and properly informed by Inmate Egbuonu, but he recklessly disregarded and acted with deliberate indifference and failed to intervene.

Commissioner Allen as a final policy maker has failed to establish how over 900 inmates at KCF can adequately access to available two desktop computer database for their respective

research and shepardize and meet deadline to commence their pleading in various Court. Commissioner Allen has failed to provide inmates adequate law library and access to the Court when: 1) he failed to provide inmates with adequate number of desktop computer database in the absence of current books on the law library shelves for inmates' research and preparation of their legal documents to serve, file to the courts to commence personal liberty interest.

Ex. 52

Commissioner Allen is afraid and have no interest to rehabilitate inmates in the State of Alabama in the 21st Century technology, when he perpetually deny inmates access to use the inmates' two desktop computer database containing current legal citation and forced inmates like Inmate Egbuonu to depend on his law librarian clerks to provide him with their research and Inmate Egbuonu has no way of verifying whether the inmate law librarian actually do conduct the research he requested. Commissioner Allen was aware and possessed knowledge that institution law librarian clerks has no time for assisting inmates who have no items to pay inmate law librarian clerk for the computer database research but totally recklessly disregarded and acted with deliberate indifference to deny inmates like Inmate Egbuonu access to use the inmates' law library desktop computer to conduct his research in the 21st Century technology but access were given to other inmates law librarian clerk. Inmate Egbuonu has never waived his personal interest to conduct his legal research on the law library desktop computer database, however the prison officials and others forced Inmate Egbuonu to surrender his research to the law librarian

clerk which lacks knowledge about Inmate Egbuonu criminal case. Inmate has suffered under Commissioner Allen policy and custom and supervision.

Inmate Egbuonu was denied access to his incoming mail containing internet generated downloaded legal material text prints in part that were not available at the KCF institution law library; Ex. 2, 44-48, 53-58, 61, 67-68, 81, 83-87, 93, 100-107, and he (Allen) failed to abide by their ALDOC AR and Constitution of United States and failed to train his prison officials and contractors as with respect to how to conduct their duties and to protect prisoner's constitutional rights. Commissioner Allen in his filed affidavit failed to address whether internt material is a threat to the safety and security of the public, staff, inmates and at KCF institution but not in Staton Correctional Facility ("SCF") and other institution in Alabama. Def. Ex. 1, 2, 3, 4, 5, and Ex. 44-48, 100, 106-107.

Commissioner Allen was aware and possessed knowledge of the KCF institution policy which provides"

"3. All incoming letters will be inspected for contraband, money and/or abuse of mail privileges before delivery to the inmate.

a. Any type of internet material is prohibited"

KCF Standard Operating Procedure ("SOP") Number: VII-6 "Inmate Mail Privileges" section (II)(3) page 3, authored by Warden Terrance McDonnell dated January 27, 2003 and February 19, 2003. However, Commissioner Allen in his filed affidavit failed to address whether the KCF SOP Number VII-6 internet policy is consist-

ent with the ALDOC AR 018, 026, 214, 231, 412, 448, States and Federal laws and First and Fourteenth Amendments of the United States Constitution. Ex. 100-102, 104, 106-107 and Def. Ex. 3, 4, 5, 10 Commissioner Allen failed to address and disclose to the Court whether the KCF SOP no. VII-6 dated 01-27-03 was effective under the ALDOC AR 018 dated 03-19-85 and ineffective under the ALDOC AR 018 dated 03-29-05 and or prison officials have failed to abide by the new ALDOC AR 018 dated 03-29-05 and Constitution of the United States. Ex. 100, 107, and Def. Ex. 10

Inmate Egbuonu was not housed at a maximum security prisons at Alabama State rather he was at the KCF permanent party minimum/medium security institution and inmates at KCF permanent party have a greater degree of freedom than inmates at higher security facilities because they pose fewer security risks. Commissioner Allen did not explain why other prison systems can get along without such restrictive rules prohibiting inmates like Inmate Egbuonu from receiving incoming mails containing internet materials text prints but the KCF in Alabama State can't. Indeed, the failure of Commissioner to explain why another institution with the same compelling interests was able to accomodate the same internet material text prints may constitute a failure to establish that Commissioner Allen and others were using the least restrictive. Commissioner Allen fails to explain why it does not have a similarly restrictive policy enforce on other computer material text prints and media since the interest in whatever it may be are no less compelling for computer material text print and media. Commissioner Allen and others forcing inmates like Inmate Egbuonu

Allen

to choose between following his First and Fourteenth Amendments rights and belief or abandoning them satisfies the irreparable harm and injury, and the balance of irreparable harm and injury, and balance of hardships favors the Inmate Egbuonu and Commissioner Allen have violated Inmate Egbuonu's First and Fourteenth Amendments constitute irreparable harm and injury.

Inmate Egbuonu has never failed to follow instructions, institutional rules and regulations and safety guidelines given to him by the prison officials and others, otherwise Inmate Egbuonu would have received a sanctions, citations, and disciplinary actions pursuant to ALDOC AR 403; Ex. 105, but Inmate Egbuonu has never violated any of the ALDOC AR rules and regulations and prison official and others have not stated otherwise or prove the same. Ex. 28

At no time were sanctions, citation, denial, disciplinary actions issued to Inmate Egbuonu by prison official and others for: 1) filing any false statement or complaint for the stated above described Constitutional obligations; 2) failure to follow direct prison order; 3) failure to follow law libraian clerk order; 4) failure to request/file access to legal materials and law library form N944L i : 5) filing any false allegation against prison official, contractor and law librarian; 6) violating of any ALDOC AR rules or regulation. Ex. 28, 2, 44-48, 53-58, 61, 67-68, 81, 83-87, 93, 100-107, and Def. Ex. 11, 12

Commissioner Allen and others are responsible for the deficiency of the internet material mail and law library final policies and regulation and because they instituted that system, defined the obligations of the mail room clerk, law library, contract

counsel/contractors, and as a result , the Commissioner Allen and others are liable for their own actions which impeded the Inmate Egbuonu's access to the incoming mails containing internet material text prints, legal material, adequate law library, access to the Court and Inmate Egbuonu's actual irreparable harm and injury.

Commissioner Allen and others facilitate prison conducts, approve it, condone it and turn a blind eye for fear of what he might see in other words act either knowingly or with deliberate reckless indifference when he failed to response to Inmate Egbuonu's complaint letter or intervene and correct the unconstitutional conduct by his prison officials and contractors. Ex. 67, 83.

Inmate Egbuonu's evidences before the Court is not only believable prior to discovery, but compelling that Commissioner Allen and others were aware, possessed knowledge that Plaintiff have never been to, nor had contact with the State of Alabama, was falsely labelled fugitive from Alabama in the 21st Century and extradited to Alabama inconsistent with Federal laws and Constitution of the United States and Universal Declaration of Human Rights subjected to trial before the Alabama State Tribunal pursuant to the Alabama State Code § 13A-8-186 with the hometown jury of the Alabama State's accuser where no crime or element of crime was committed. Ex. 3, 4, 12, ,14, 15-18, 27, 30, 98

Commissioner Allen was aware and possessed knowledge that Inmate Egbuonu was tried in the Alabama State in absence of the the Constitutional due process and jurisdiction of the United States irrespective that the Constitution mandate criminal trial

shall be held where crime was committed. Ex. 3, 4, 12, 14, 15-18, 27, 30, 67, 97, 98, U.S.C. Article I, III, IV, VI and U.S.C. Amendment 5, 6, 8. Commissioner worked alone and together with others to denied deprived Inmate Egbuonu the legal citation decisions he requested that he needed to conduct research prepare file his exhausted State's writ before the Federal Court and also denied him access to receive incoming mail containing internet generated downloaded material text print in part including the legal material decisions that Inmate Egbuonu requested which were not available in the institution law library. Ex. 44-48, 51-56, 67, 83

Commissioner Allen was aware and possessed knowledge of the above described and took every step necessary to prohibit Inmate Egbuonu from informing or notifying the Federal Court timely about the State of Alabama new enacted Code § 13A-8-196 which is in contrary to Federal laws and Constitution of United States, International Treaties and Universal Declaration of Human Rights, and as a result of his actions and inactions, Inmate Egbuonu have suffered irreparable harm and injury and damages and loss and continuous incarceration/detention and in addition to as his direct appeal is still with the Alabama Court of Criminal Appeals for rehearing since March 6 or 7, 2008. Ex. 98

Inmate Egbuonu re-alleges and incorporates by references Commissioner Allen failure to meet the stated above described Constitutional Obligations and failed to train and supervise his prison officials and contractors and Inmates Egbuonu's attached evidence exhibits and filed civil complaints and Inmate Egbuonu's response to Special Report and Answer and Affidavits and states

Allen

that Commissioner Allen has violated Inmate Egbuonu's First, Eighth and Fourteenth Amendments Constitutional rights, Federal and State laws and regulations respectively as with respect to Inmate Egbuonu's claim for relief and has engaged in intentional or reckless conduct, the conduct extreme and outrageous, the conduct caused the Plaintiff sleeplessness, emotional distress, damages, economic and non-economic loss and was severe. Commissioner Allen has worked alone and together with others to form a custom policy which violates Inmate Egbuonu's First and Fourteenth Amendments' Constitutional rights, Federal and State law and regulations respectively in all manner

Egbuonu Zephyr

Zephyrinus Egbuonu
(Acting Pro-Se)

STATE OF LOUISIANA

OAKDALE, LOUISIANA

Sworn to and subscribed before and under my hand official seal this the 19th day of March, 2008.

Wany 053496
Notary Public

My Commission expires: at death

CERTIFICATE OF SERVICE

I hereby certify that I have this 19th day of March, 2008 served a copy of the forgoing attached, by first-class United States Mail, postage prepaid and addressed upon the following:

Tara S. Knee

Assistant Attorney General
Assistant General Counsel
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